

The Honorable Karen A. Overstreet  
Chapter 11  
Hearing Location: Seattle, Rm 7206  
Hearing Date: March 4, 2011  
Hearing Time: 9:30 a.m.  
Response Date: February 25, 2011

UNITED STATES BANKRUPTCY COURT  
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

In re

FREDERICK D. BERG,

Debtor.

Case No. 10-18668-KAO

TRUSTEE'S MOTION FOR APPROVAL TO  
SELL DEBTOR'S ART

I. RELIEF REQUESTED

Diana K. Carey ("**Trustee**"), Chapter 11 Trustee for the Debtor, through her undersigned counsel, pursuant to 11 U.S.C. §§ 105(a) and 363, moves the Court for an Order approving the sale of two pieces of art work back to the artist, Cassandra Blackmore. This motion is supported by the Declaration of Diana K. Carey ("**Carey Decl.**").

II. STATEMENT OF FACTS

1. On July 27, 2010, Debtor Frederick D. Berg filed a petition under Chapter 11 of the United States Bankruptcy Code.

2. On August 19, 2010, an order was entered appointing Trustee over the Bankruptcy Estate.

1           3.       Since appointment, the Trustee and her advisors have diligently searched for assets of  
2 the Bankruptcy Estate. Through these efforts, the Trustee has possession of two paintings by  
3 Cassandra Blackmore, "Cotton Candy Girl," and "Mardi Gras Girl." (collectively the "**Art**").

4           4.       After being unable to locate a gallery that would take the Art on commission, the  
5 Trustee contacted Ms. Blackmore who offered to repurchase the Art for \$3,500, payable upon court  
6 approval of such sale. Based on insurance values of the Art, the Trustee feels the price offered is a fair  
7 one.  
8

9           5.       The Trustee believes that none of the Art is subject to a lien, claim or encumbrance.

### 10                               III.       STATEMENT OF ISSUES

11           Whether the Court should enter an Order permitting the Trustee to sell the Art free and clear  
12 of liens pursuant to 11 U.S.C. § 363?  
13

### 14                               IV.       AUTHORITY

15           This Motion is brought pursuant to Fed. R. Bankr. P. 9013, Local Rule 9013, 11 U.S.C. § 363  
16 and 11 U.S.C. § 105. Bankruptcy Code § 363(b) generally provides that the Trustee, after notice and  
17 a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the  
18 Bankruptcy Estate. § 363(f) provides that the Trustee may sell property under subsection (b) free and  
19 clear of interests if (1) applicable non-bankruptcy law permits sale of such property free and clear of  
20 such interest; (2) such entity consents; and (3) such interest is a lien and the price at which such  
21 property is to be sold is greater than the aggregate value of the liens on such property. Based on a  
22 diligent review of Berg's records, the Trustee believes that none of the Art is subject to any liens,  
23 claims, or encumbrances.

24           Bankruptcy Code § 105(a) permits the Court to enter any order that is necessary or  
25 appropriate for the administration of the estate. The Trustee believes that an order of the Court  
26 approving the disposition of the Art as contemplated herein is necessary for the administration of the  
27 estate.  
28

1 The Trustee proposes to use the proceeds from the sales contemplated hereby in the normal  
2 course or as otherwise approved by the Court.

3 V. CONCLUSION

4 For the reasons stated above, the Trustee respectfully requests that the Court enter an order,  
5 (i) approving the sale of the Art as contemplated herein, and (ii) declaring that the sale is free and clear  
6 of all liens, claims, and encumbrances (if any) and that such liens, claims, and encumbrances (if any),  
7 shall attach with the same priority as they currently exist to the net proceeds received by the Trustee  
8 from the purchaser of the Art.  
9

10 DATED this 4<sup>th</sup> day of February, 2011.  
11  
12

13 KARR TUTTLE CAMPBELL

14  
15 By: /s/ Stephen S. McKay  
16 George S. Treperinas, WSBA #15434  
17 Stephen S. McKay, WSBA #42046  
18 Attorneys for Diana K. Carey, Chapter 11 Trustee  
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